

REMARKS/ARGUMENTS

Claims 35-36 and 28-54 are currently pending in the application. Claims 1-34 were canceled in a response to a restriction requirement dated August 1, 2005, and may be filed in one or more divisional applications. Claim 37 was cancelled in response to the June 8, 2007 Office Action. Applicant requests reconsideration of the application in view of the following remarks.

Claim Objections

Claim 38 is objected to as being dependent on cancelled claim 37. Applicant has amended claim 38 to depend from claim 35. Applicant believes that this amendment overcomes Examiners objection to claim 38. Thus, Applicant respectfully requests that the objection to claim 38 be withdrawn.

Rejections under 35 U.S.C. §102

Examiner rejects claim 35 under 35 U.S.C. 102(e) as being anticipated by Komatsu (U.S. 6,835,320). Applicant respectfully traverses this rejection and requests reconsideration.

However, to further distinguish Applicant's invention from the cited reference and to facilitate the issuance of this patent application, claim 35 has been amended to read that the first and second materials are reacted together to provide a third material which includes a compound consisting of the chalcogen and metal elements. Applicant believes that Examiner must consider the phrase "consisting of" in claim 35 when judging its patentability. All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Applicant believes that Komatsu does not disclose this limitation. A rejection for anticipation under 35 U.S.C. 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). Applicant points out, and Examiner states on Page 3 of the Office

Action, that Komatsu discloses the third material as including $\text{Al}_a\text{Zn}_b(\text{OH})_c(\text{SO}_4)_d \cdot 1.0\text{H}_2\text{O}$. Applicant believes that $\text{Al}_a\text{Zn}_b(\text{OH})_c(\text{SO}_4)_d \cdot 1.0\text{H}_2\text{O}$ does not consist of the chalcogen and metal elements, as required in claim 35, so that claim 35 does not read on Komatsu. $\text{Al}_a\text{Zn}_b(\text{OH})_c(\text{SO}_4)_d \cdot 1.0\text{H}_2\text{O}$ does not consist of the chalcogen and metal elements because it includes elements other than the chalcogen and metal elements. Hence, claim 35 does not read on Komatsu. Anticipation of a claim requires a finding that the claim at issue reads on a prior art reference. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed. Cir. 1999); *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 781, 227 USPQ 773, 778 (Fed. Cir. 1985). Further, Applicant believes that Komatsu does not disclose the identical invention in as complete detail as is contained in the claim because Komatsu does not disclose the third material as consisting of the metal and chalcogen elements. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Hence, for the above reasons, Applicant believes that claim 35 is not anticipated by Komatsu. Thus, Applicant respectfully requests that the 35 U.S.C. 102(e) rejection of claim 35 in view of Komatsu be withdrawn.

Applicant points out that claims 38-54 are dependent claims which depend from claim 35. Applicant points out that claim 35 is an independent claim and that claims 36-40 depend from independent claim 35. As discussed above, Applicant believes that claim 35 is not anticipated by Komatsu. Applicant also believes that if an independent claim is not anticipated by a reference, then any claims depending therefrom will also not be anticipated. Hence, Applicant believes that claims 38-54 are allowable.

Applicant hereby declares that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

Applicant has amended and canceled the aforementioned claims herein solely to expedite prosecution of this application. In doing so, Applicant does not dedicate the subject matter of the amended and canceled claims to the public, and does not acquiesce to the Examiner's reason(s) offered in support of the rejections of the amended claims. Applicant also reserves the right to seek patent protection for claims similar or identical to the amended and/or canceled claims in one or more subsequently filed, related applications.

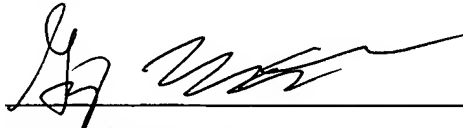
CONCLUSION

Applicant respectfully requests reconsideration of this application in view of the remarks and arguments provided above.

Applicant believes that the cited references do not anticipate or make obvious Applicant's claimed invention. Because of this, Applicant respectfully requests a timely Notice of Allowance to be issued for this case.

Respectfully submitted,

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